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# Regional and International Activities

Isidoro Zanotti

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## REGIONAL AND INTERNATIONAL ACTIVITIES

ISIDORO ZANOTTI\*

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### I. ORGANIZATION OF AMERICAN STATES

#### *Perspective of the OAS Secretary General on the Evolution of the Inter-American System*

On January 31, 1986, Ambassador João Clemente Baena Soares, the Secretary General of the Organization of American States (the OAS), delivered an important speech at the Florida International Alliance Conference in Orlando, Florida. Ambassador Baena Soares spoke on the evolution of the Inter-American system and the recent Protocol of Amendment (the 1985 Protocol) to the OAS Charter adopted by the OAS General Assembly at a special session held in Cartagena de Indias, Colombia, December 2

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through 4, 1985.<sup>1</sup>

Ambassador Baena Soares stated that throughout history "[O]ur hemisphere has meant renewed hope for hundreds of millions of human beings. This is a region where people have fought for freedom, struggled for justice, worked for progress and prayed for peace. . . . Closely related to material and social development is the question of peace."

The Ambassador noted how well the nations of this hemisphere have worked together in matters of development and peace, through a multilateral political forum—the OAS. In addition, he referred to several important historical events in the evolution of the Inter-American system, emphasizing that "[T]hroughout its history the Inter-American system has managed to adapt its functions to the successive historical demands of the hemispheric community. It has shown flexibility while maintaining its original commitment to the preservation of peace and to the observance of the basic principles of international law."

Ambassador Baenes Soares stated that the adoption of the 1985 Protocol "exemplified, once again, the determination to adjust our regional Organization to the actual needs of the Inter-American system today. The Protocol of Amendment to the Charter expressed a political will of all member countries to build a more effective system with which to cope with today's and tomorrow's interrelated problems in a fast-changing hemisphere."

The Ambassador mentioned several relevant aspects of the reform achieved made by the 1985 Protocol, including the provisions of the OAS Charter dealing with the Permanent Council's functions concerning the peaceful settlement of disputes. He noted that the new provisions enhance the Permanent Council's political role, and provided that: "any party to a dispute in which none of the peaceful procedures provides for in the Charter is under way may resort to the Permanent Council to obtain its good offices. The Council . . . shall assist the parties and recommend the procedures it considers suitable for peaceful settlement of the dispute."

The Ambassador also quoted an important amendment to article 116 of the OAS Charter: "The Secretary General may bring to attention of the General Assembly or the Permanent Council any

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1. The text of the speech of the Secretary General of the OAS was published by the Department of Public Information, OAS General Secretariat, Washington, D.C., January 31, 1986.

matter which in his opinion might threaten the peace and security of the hemisphere or the development of the member states. The authority to which the preceding paragraph refers shall be exercised in accordance with the present Charter.”

Ambassador Baena Soares indicated that “[A]n equally important reform is the merging of three chapters of the preceding Charter into a single chapter entitled Integral Development. The name by itself implies an important recognition of the ‘close interdependence between foreign trade and economic and social development, among other issues’ ” He also stated that the “Protocol of Amendment recognizes that ‘favorable conditions of access to world markets for the products of the developing countries of the region’ are necessary in order ‘to speed up the development of the less developed member states and intensify their process of economic integration. . . .’ Other provisions call for ‘improved conditions for trade in basic commodities, improved international financial cooperation and the adoption of other means for lessening the adverse impact of sharp fluctuations in export earnings; diversification of exports and the encouragement of education, science, technology and culture through educational, research and technological development activities and information and dissemination programs.’ ”

Ambassador Baena Soares pointed out that the amendment of article 8 of the OAS Charter extends “membership in the Organization . . . to independent states of the hemisphere that were members of the United Nations as of December 10, 1985 and the non-autonomous territories . . . when they become independent.”<sup>2</sup> However, he said that “if one had to list the outstanding accomplishments achieved by the Inter-American system over the years, one would have to rank the adoption of standards and principles of Public International Law among the most important. Indeed the idea that justice and International law should play a prominent role in Inter-American relations has been constant throughout the evolution of our regional system.”

The Ambassador stressed that “[I]n its 95 years of life under various institutional frameworks the OAS has been an instrument of positive change and an effective mechanism for the preservation of peace in the hemisphere. One of the main reasons why the OAS is an irreplaceable mechanism in Inter-American affairs is that it

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2. Article 8 of the present text of the OAS Charter is a transitory provision which will be effective until December 10, 1990.

constitutes a unique forum where all members participate as equals in establishing their common interests, in increasing their cooperation and in resolving regional problems."

He stated that "in keeping with the impetus from the Cartagena reform, we need a fresh and more flexible approach to certain issues, such as the peaceful settlement of regional disputes, external debt, and transfer of technology in a way that will lead to positive results, both multilaterally and bilaterally. The debt question is a priority in our agenda, as the most dramatic aspect of the problem of development."

Ambassador Baena Soares offered a positive perspective of the present and the future stating that: "We begin to see signs of a new approach in the decisions of the OAS Member States to address together certain problems that had traditionally been attributed to their domestic jurisdiction. One example is the illegal traffic of drugs which will be dealt with for the first time on a hemispheric context during a special Conference to be held in April, 1986 in Rio de Janeiro. Another is the recently adopted Convention on torture and other inhuman and cruel treatment or punishment." In his final remarks, Ambassador Baena Soares concluded that "We must stimulate a continuous effort of understanding among the peoples of this hemisphere. The present pattern of concern with Latin-American and Caribbean affairs expresses itself only when we reach periods of acute crisis. This situation should be corrected. The actual picture is one of immediate attitudes not of consistent and persistent discussion of problems and collective search for solution[s]. The OAS is the only international organization that provides the forum and mechanism for such efforts, [and] for a comprehensive consideration of all aspects of this relationship; and the State of Florida, within the United States, holds a privileged position to quicken all segments of American society to study and better understand the nations of Latin America and the Caribbean."

## II. REGULAR SESSION OF THE OAS GENERAL ASSEMBLY

The fifteenth regular session of the OAS General Assembly (the General Assembly) was held in December of 1985 in Cartagena de Indias, Colombia. During this session, the General Assembly approved several resolutions on political, legal, economic, social, educational, technological, and administrative matters. The

following is a summary of some of the resolutions.<sup>3</sup>

*A. Some Priority Guidelines for 1986<sup>4</sup>*

The General Assembly adopted a resolution expressing its determination to generally revitalize and strengthen the OAS. The General Assembly urged that the following measures be taken:

1. A recommendation to the member state governments to put into force the Protocol of Amendment.<sup>5</sup>

2. A recommendation to the member state governments to cooperate with the OAS Secretary General in an effort to resolve the remaining financial problems of the OAS. Correcting the OAS financial situation is critical if the organization is to effectively function.

3. That the Secretary General, in the preparation for the Inter-American Specialized Conference on Drug Traffic<sup>6</sup> include a program to develop plans for the education of the children and youth of various age groups on drug abuse. The drug prevention program should include films and printed materials. In addition, the Secretary General must coordinate with member states and international organizations in the preparation of the drug prevention programs to ensure that the prepared material is disseminated to all primary and secondary schools and universities in each of the participating countries.

4. That the Secretary General recruit distinguished experts from the Western hemisphere to prepare drafts and options on subjects such as capital flight, trade, investment, debt burden, economic growth, the relationship between economic growth and the survival of democracy, and other issues contributing to the unprecedented economic problems facing the hemisphere.

5. That the member state governments note the recent successful resolutions by Argentina and Chile of their southern dispute and consider similar problems in other countries that may be successfully resolved by utilizing the principles of international law

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3. See generally OEA/Ser.P; AG/Doc. 2023/85Rev.1.

4. AG/Res.776 (XV-0/85).

5. The Protocol of Amendment to the Charter of the Organization of American States (Protocol of Cartagena de Indias) was adopted by the fourteenth special session of the OAS General Assembly held in Cartagena de Indias, Colombia, December 2 to 4, 1985.

6. The conference was scheduled for April of 1986.

and the spirit of good will. In addition, that the Secretary General and the Permanent Council consider how the Secretariat might facilitate conflict resolutions when OAS participation is welcomed by the involved parties.

According to the resolution, if these five measures are implemented, in addition to other already contemplated activities, the ability of the OAS to contribute to the peace and well being of the Western hemisphere will be dramatically enhanced.

### *B. Strengthening of the Inter-American System*<sup>7</sup>

The General Assembly urged the OAS Secretary General to continue his efforts to coordinate the activities of the organs, agencies, entities and other institutions of the Inter-American system. The General Assembly urged these institutions work together to improve the effectiveness of joint efforts to provide direct services to the people of the Western hemisphere.

### *C. Limitation of Conventional Weapons*<sup>8</sup>

The General Assembly stated in the preamble that the Protocol of Amendment to the OAS Charter establishes as an essential purpose of the OAS "the effective limitation of conventional weapons." This will enable the OAS "to devote the largest amount of resources to the economic and social, development of the member states." The General Assembly instructed the Secretary General to consult with the member states on the limitation of conventional weapons and to submit a comprehensive report of the results to the General Assembly at its sixteenth regular session in 1986.

### *D. Inter-American Convention to Prevent and Punish Torture*<sup>9</sup>

The Inter-American Convention to Prevent and Punish Torture (the Convention) was adopted by the General Assembly based on a revised draft convention submitted by the Permanent Council. The original draft convention had been prepared by the Inter-American Juridical Committee in cooperation with the Inter-

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7. AG/Res.773 (XV-0/85).

8. AG/Res.769 (XV-0/85).

9. AG/Res.783 (XV-0/85).

### American Commission on Human Rights.

In a previous report on Regional and International Activities<sup>10</sup> several provisions of the draft convention were mentioned. However, the General Assembly has made revisions to the final text of the convention.

Article 1 of the convention provides that the states parties will undertake to prevent and punish torture in accordance with the terms of the convention. According to article 2, torture as used within the convention, is defined as any intentional act which results in the infliction of physical or mental pain or suffering upon a person during the course of a criminal investigation, as a means of intimidation, as personal punishment, as a preventive measure, as a penalty or for any other purpose. Torture also includes acts committed upon a person intended to obliterate the personality of the victim, or to diminish his physical or mental capacities, even if no physical pain or mental anguish is caused.

Article 3 provides that the following persons will be guilty of the crime of torture:

a) a public servant or employee who, acting within that capacity, orders, instigates or induces the use of torture, or who directly commits torture or who, being able to prevent it, fails to do so; or

b) any person who, at the direction of a public servant or an employee orders, instigates or induces the use of torture, directly commits torture or is an accomplice thereto.

Under article 4, acting under orders of a superior will not absolve a person of criminal liability.

The convention is open for signature and ratification by OAS member states. The instrument of ratification will be deposited with the General Secretariat of the OAS. Furthermore, the convention is open to accession by any other state. The instruments of accession will also be deposited with the General Secretariat.

### *E. Site for the Specialized Conference on Drug Traffic*<sup>11</sup>

At the fourteenth regular session, the General Assembly convoked the Inter-American Specialized Conference on Drug Traffic.

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10. Zanotti, *Regional and International Activities*, 17 U. MIAMI INTER-AM. L. REV. 131 (1985).

11. AG/Res.767 (XV-0/85).



At the fifteenth regular session in 1985, the General Assembly, accepting the generous offer from the Government of Brazil, decided to hold the Conference in Rio de Janeiro starting on April 22, 1986.

*F. Condemnation of Terrorist Methods and Practices*<sup>12</sup>

In the preamble of the resolution on the Condemnation of Terrorist Methods and Practices (the terrorist resolution), the General Assembly expressed deep concern over the escalation of terrorist acts which endanger the lives of innocent human beings, cause the loss of lives, threaten fundamental freedoms, and seriously affront human dignity; in recent years, terrorist acts have become increasingly injurious to the international community.

In the operative paragraphs of the terrorist resolution, the General Assembly expressed its unequivocal support for the United Nation's consideration at its fortieth session of the international terrorism problem. The General Assembly deplored the loss of innocent human lives caused by terrorist acts. It also condemned as criminal all acts, methods, and practices of terrorism whenever and by whomever committed, including terrorist acts jeopardizing friendly relations among states and their security. The General Assembly urged all member states to cooperate closely with each other, through the exchange of information concerning the prevention of terrorism; the apprehension, prosecution, and extradition of the terrorism perpetrators; and the adoption of treaties or the incorporation of special clauses into existing bilateral treaties (clauses on the extradition or prosecution of terrorists, for example). The General Assembly decided to transmit the terrorism resolution to the President and Secretary General of the United Nations General Assembly so that the position of the American states is duly noted.

*G. Inter-American Commission on Human Rights*<sup>13</sup>

The General Assembly thanked and commended the Inter-American Commission on Human Rights (the Human Rights Commission) for its work furthering the protection and promotion of human rights. The General Assembly urged the member states' governments (those states mentioned in the Human Rights Com-

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12. AG/Res.775 (XV-0/85).

13. AG/Res.778 (XV-0/85).

mission's annual report) to follow, according to their constitutional precepts and domestic laws, the recommendations of the Human Rights Commission to ensure the observance of the human rights advocated by the American Declaration of Rights and Duties of Man and the American Convention on Human Rights. The General Assembly also expressed its satisfaction with the measures that several OAS member states have adopted to strengthen the rule of law and the democratic rule of government and measures guaranteeing full respect for human rights.

In another resolution,<sup>14</sup> the General Assembly expressed the OAS' appreciation for the work performed by the Inter-American Court of Human Rights. It urged that OAS member states which have not yet done so to ratify the American Convention on Human Rights. The General Assembly expressed hope that all the states who are parties to the Human Rights Convention will acknowledge the Human Rights Court's compulsory jurisdiction.

*H. Convocation of the Fourth Inter-American Specialized Conference on Private International Law* <sup>15</sup>

The preamble of resolution 771 states that the three previous Inter-American Specialized Conferences on Private International Law (CIDIP) approved important conventions and achieved significant progress by studying topics of special interest and usefulness to inter-American relations. Resolution 771 refers to the CIDIP-III resolution<sup>16</sup> preamble which provides that "[T]his Conference has endorsed what has been stated by CIDIP-I and CIDIP-II to the effect that it is necessary to pursue the systematic study of various important topics at the governmental level and that, moreover, it is very important to continue following the process adopted at these Conferences, which is to prepare and approve special conventions on specific matters, and thus to initiate a stage in the evolution of a highly important branch of law within the framework of the inter-American system." In addition, the preamble recalled that CIDIP-III had requested that the General Assembly convoke CIDIP-IV and based on the CIDIP-III resolutions provide for the inclusion on the CIDIP-IV agenda the following topics: international contracts, extra-contractual liability, international carriage

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14. AG/Res.780 (XV-0/85).

15. AG/Res.771 (XV-0/85).

16. CIDIP-III/Res.VI (1984).

by road, kidnapping and return of minors, support obligations, divorce, personality and the capacity of natural persons, and an additional protocol to the Inter-American Convention on the Extraterritorial Validity of Foreign Judgments.

The operative paragraphs of resolution 771 convoke CIDIP-IV. The General Assembly instructed the Permanent Council to set, in due course, the place and date for CIDIP-IV and prepare the draft agenda and rules of procedure for the conference for submission to the member states' governments for their consideration.

Furthermore, the General Assembly instructed the Inter-American Juridical Committee to prepare studies, reports, draft conventions, and statements of reasons on the topics that will be included in the draft agenda for CIDIP-IV. The General Assembly also requested the OAS General Secretariat to prepare technical and informational documents necessary to facilitate preparation of the draft agenda, and any other documents that it considers appropriate for use by the conference.

The General Assembly urged the Inter-American Children's Institute, an OAS agency, to continue its work on the rights of minors, which is included in the draft agenda of CIDIP-IV. The General Assembly directed that the General Secretariat request institutes, academies, and other institutions dedicated to the study of private international law in the hemisphere, to collaborate with the OAS' preparation of CIDIP-IV by making suggestions for the inclusion of items on its draft agenda and by preparing studies and opinions related to the topics of the conference.

It should be noted that the three previous conferences<sup>17</sup> adopted sixteen inter-American conventions and two protocols. These instruments dealt with a variety of private international law topics which are of special interest and importance for the American countries. They were very successful conferences. Dr. Isidoro Zanotti, a Brazilian jurist, closely collaborated as a member of the technical legal staff of the OAS in all phases of the preparation and holding of the three CIDIP conferences.

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17. CIDIP-I was held in Panama in 1975; CIDIP-II was held in Montevideo in 1979; CIDIP-III was held in La Paz in 1984.

*I. Legal Status of Asylees, Refugees and Displaced Persons in the American Hemisphere*<sup>18</sup>

In the resolution on Legal Status of Asylees and Displaced Persons, the General Assembly recalled that a Colloquium on the International Protection of Refugees in Central America, Mexico, and Panama was held in Cartagena, Colombia, in November 1984. At the Colloquium, the Declaration of Cartagena on Refugees was adopted. The General Assembly especially mentioned the positive efforts the United Nations High Commissioner for Refugees has made in conjunction with the authorities in the countries offering asylum and the various governmental and non-governmental organizations on the refugee issue. The Assembly also commended the OAS General Secretariat and UNHCR's efforts under a cooperative program established in 1982.

The General Assembly expressed its confidence that the countries of the region will continue to cooperate with an effective international endeavour on the refugees' behalf. As a definitive solution to the refugee problem, the General Assembly called upon the member states to create conditions and mechanisms that will permit the voluntary repatriation of refugees in the hemisphere.

*J. The Question of the Malvinas Islands*<sup>19</sup>

In the Malvinas Island resolution, the General Assembly supported several United Nations resolutions requesting the Governments of Argentina and of the United Kingdom of Great Britain and Northern Ireland to resume negotiations to find, as soon as possible, a peaceful solution to their sovereignty dispute and other differences concerning the Malvinas Islands. The resolution also expressed the General Assembly's concern over the lack of progress in complying with the UN resolutions. The General Assembly decided to transmit the text of the Malvinas Island resolution to the United Nations General Assembly's President and Secretary General to note the opinion of the American states concerning the existing situation.

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18. AG/Res.774 (XV-0/85).

19. AG/Res.765 (XV-0/85).

*K. Special Session of the General Assembly on Inter-American Cooperation for Development*<sup>20</sup>

The General Assembly decided to hold the Special Session of the General Assembly on Inter-American Cooperation for Development, convoked in 1976, during the second half of 1986 in the city of Montevideo, Uruguay.

III. INTER-AMERICAN JURIDICAL COMMITTEE

*A. Draft Inter-American Convention on the International Restitution of Minors*

During the January, 1986 session, the Inter-American Juridical Committee (the Juridical Committee) approved the Draft Inter-American Convention on the International Restitution of Minors (the draft convention) and a statement of reasons for the draft.

The draft convention contains twenty articles consisting of the substantive provisions and the final clauses. The purpose of the draft convention is to assure the prompt restitution of minors illegally taken from their habitual state party residence to another state party. The draft convention states that the presence of a minor in the territory of another state party is considered illegal when the transfer was made in violation of the rights that the parents, tutors, or guardians exercise over the minor. The courts of the state party of habitual residence of the minor will have jurisdiction in actions concerning the restitution of minors.

The Juridical Committee requested that the OAS General Secretariat transmit the draft convention to the governments of the OAS member states for their comments.

*B. Administration of Justice*

During the January 1986 session, the Juridical Committee also approved a resolution convoking a seminar for the exchange of information on the measures taken or being studied to improve the administration of justice in American countries. The Juridical Committee requested that the two rapporteurs for the topic find

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20. AG/Res.768 (XV-0/85).

out which public and private institutions would be interested in participating and financing the seminar. The Juridical Committee suggested that the seminar be held in Lima, Peru in late 1986.

### *C. Course on International Law*

The Juridical Committee approved the program for the XIII Course on International Law being held in Rio de Janeiro in August, 1986. The program includes the following topics: the development of public international law since the creation of the United Nations in 1945; Mexico and the law of the sea; the principle of nationality and its relation to transnational enterprises; international rivers; the developing countries and UNCTAD; reservations to treaties; economic coercion in international law; prohibition of the use of force against civil aviation; some aspects of the new law of the sea; recent developments in international environmental law; principles, purposes and other standards of the OAS Charter; the amendments to the OAS Charter made by the XIV special session of the OAS General Assembly held in Cartagena, Colombia, December 1985; the protection of human rights in the inter-American system; inter-American legal aspects of the proposed Multilateral Investment Guarantee Agency; the work accomplished by the Juridical Committee; external debt; protection of refugees; contribution of CIDIP I, II and III to the development of private international law; a comparative analysis of asylum, refugee, extradition and expulsion; and round tables on the law of the sea and the future of the inter-American system.

### *D. Annual Report of the Inter-American Juridical Committee (1985)*

During its 1985 regular session, the General Assembly took note of the annual report of the Juridical Committee and conveyed to the Committee the Assembly's appreciation for the valuable work it has accomplished. In addition, the General Assembly instructed the Permanent Council to study and recommend revisions to the draft Inter-American Convention to Facilitate Assistance in Case of Disaster, prepared by the Juridical Committee.<sup>21</sup>

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21. AG/Res.777 (XV-0/85).

## IV. UNITED NATIONS

The following is a summary of some resolutions adopted by the United Nations General Assembly during the first part of its fortieth session in 1985.<sup>22</sup>

*A. International Cooperation in the Peaceful Uses of Outer Space*

In Resolution 40/162, the United Nations General Assembly (the UN Assembly) adopted the following measures, actions and recommendations for the International Cooperation in the Peaceful Uses of Outer Space.

The UN Assembly endorsed the report of the Committee on the Peaceful Uses of Outer Space and invited the states that have not yet become parties to the international treaties governing the uses of outer space to give consideration to ratifying or acceding to those treaties. The UN Assembly noted, that in its twenty-fourth session the Legal Sub-Committee on the Peaceful Uses of Outer Space continued:

a) to consider of the legal implications of remote sensing of the earth from space to formulate draft principles relating to remote sensing;

b) to study the possibility of supplementing the norms of international law relevant to the use of nuclear sources in outer space; and

c) to consider matters relating to the definition and delimitation of outer space and the character and utilization of the geostationary orbit.

The UN Assembly endorsed the recommendations to the Committee on the Peaceful Uses of Outer Space that the Legal Sub-Committee should continue its efforts in the above areas at its twenty-fifth session. Furthermore, taking into account the concerns, particularly those of developing countries, the Committee should:

a) attempt to finalize the draft principles relating to remote sensing;

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22. G.A.Res.7272, U.N. Dept. of Public Information Press Release (Jan. 13, 1986). Resolutions and decisions adopted by the UN Assembly during the first part of its fortieth session, from September 17 to December 18, 1985.

b) develop draft principles relevant to the use of nuclear power sources in outer space; and

c) consider methods and the means to ensure the rational and equitable use of the geostationary orbit without prejudicing the International Telecommunications Union's role.

The UN Assembly also endorsed the recommendations of the Committee on the Peaceful Uses of Outer Space that the Scientific and Technical Sub-Committee should consider the following items on a priority basis at its twenty-third session:

a) the United Nations Program on Space Applications and the coordination of space activities within the United Nations system;

b) the implementation of the recommendations of the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space, particularly the following: (i) all countries should have the opportunity to use the techniques resulting from medical studies in space; (ii) data banks at the national and regional levels should be strengthened and expanded, and an international space information service should be established to function as a center of coordination; (iii) the United Nations should support the creation of adequate training centers at the regional level, linked, whenever possible, to institutions implementing space programs and the necessary funding for the development of the centers should be made available through financial institutions; and (iv) the United Nations should organize a fellowship program for selected graduates or post-graduates from developing countries to receive in-depth, long-term exposure to space technology and applications;

c) consider questions relating to the remote sensing of earth by satellites; and

d) consider the use of nuclear power sources in outer space.

In addition to the above priority items, the Scientific and Technical Sub-Committee should: consider questions relating to space transportation and the implications for future activities in space; examine the physical nature and technical attributes of the geostationary orbit; and study items relating to life sciences, including space medicine. The UN Assembly emphasized the urgency and importance of fully implementing the recommendations of the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space as early as possible, and invited all governments to take effective action to implement the recommendations.



Finally, the UN Assembly endorsed the recommendations of the Committee on the Peaceful Uses of Outer Space that the member states' governments, specialized agencies and other organizations of the UN system be alerted to the following studies proposed by the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space:

a) assistance to countries to study their remote-sensing needs and to assess the appropriate system to meet their needs;

b) the feasibility of using broadcasting satellites for educational purposes and of implementing internationally or regionally owned space segments; and

c) the feasibility of obtaining closer spacing of satellites in the geostationary orbit and determining whether the satellites can satisfactorily co-exist, including a closer examination of the technoeconomic implications, particularly for developing countries, to ensure the most effective utilization of the orbit in the interest of all countries.

### *B. Law of the Sea*

Through Resolution 40/63, the UN Assembly recalled the historic significance of the United Nations Convention on the Law of the Sea (the Law of the Sea Convention) as an important contribution to the maintenance of peace, justice and progress for all peoples of the world. The UN Assembly expressed its satisfaction with the increasing number of ratifications deposited with the UN Secretary General and called upon all states that have not done so, to consider ratifying or acceding to the Law of the Sea Convention at the earliest possible date.<sup>23</sup> In addition, the UN Assembly called upon states, when enacting their national legislation, to observe the Law of the Sea Convention's provisions and to desist from taking actions which undermine the convention or defeat its object and purpose.

The UN Assembly expressed its appreciation to the UN Secretary General for the effective execution of the central program in the law of the sea affairs, and for the report in response to the UN General Assembly's Resolution 39/73. In addition, the UN Assem-

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23. The UN Assembly took note of the Declaration of August 30, 1985 by the Preparatory Commission for the International Sea-Bed Authority and the International Tribunal for the Law of the Sea.

bly requested that the UN Secretary General continue implementing the activities outlined in Resolution 39/73 and activities aimed at strengthening the new legal regime of the sea. The UN Assembly approved the program for meetings of the Preparatory Commission in 1986 and called upon the Secretary General to continue assisting the states' implementation of the Law of the Sea Convention to develop a consistent and uniform approach to the new legal regime of the sea.

### *C. Settlement of Disputes by Peaceful Means*

In Resolution 40/9, the UN Assembly addressed a solemn appeal to states in conflict to immediately cease armed action and settle their disputes by negotiations and other peaceful means. The UN Assembly called upon all states to comply fully and consistently with the obligations they have assumed, in accordance with the purposes and principles of the UN Charter, to resolve conflicts and disputes by peaceful means, to refrain from the threat or use of force, and to refrain from any intervention in the internal affairs of other states.

The UN Assembly invited the Security Council, the organ created by the UN Charter to oversee the maintenance of international peace and security, to act promptly in regional conflict and dispute cases, by recommending appropriate procedures or methods of adjustment, including the designation of representatives of the United Nations to assist in settling disputes between states by peaceful means. The UN Assembly also encouraged the UN Secretary-General to play an active role in promoting efforts for the peaceful settlement of disputes and conflicts between states.

### *D. United Nations Commission on International Trade Law*

In Resolution 40/71, the UN Assembly commended the United Nations Commission on International Trade Law (UNCITRAL) for the progress it has made, and called upon UNCITRAL to continue to take account of relevant provisions of the UN Assembly resolutions concerning the new international economic order. The UN Assembly reaffirmed the importance, particularly for developing countries, of the work developed by the Working Group on the New International Economic Order concerning the drafting of international contracts for industrial works construction.

The UN Assembly welcomed UNCITRAL's work on the legal implications of automated data processing for the flow of international trade as a vitally important activity to states at all levels of economic development. In addition, it commended UNCITRAL for its recommendation on the legal value of computer records which, in conjunction with the preparatory study by the secretariat, helps clarify the legal issues. The UN Assembly called upon governments and international organizations to take action, where appropriate, in conformity with UNCITRAL's recommendation to ensure legal security for the widest possible use of automated data processing in international trade.

The UN Assembly reaffirmed UNCITRAL's mandate<sup>24</sup> to coordinate international trade law activities to avoid duplication of effort and to promote efficiency, consistency, and coherence in the unification and harmonization of international trade law. The UN Assembly also reaffirmed the importance, particularly for developing countries, of UNCITRAL's work in training and assisting countries in international trade law, and expressed a desire for UNCITRAL to sponsor symposia and seminars on the topic.

#### *E. Model Law on International Commercial Arbitration of UNCITRAL*

The UN Assembly, through Resolution 40/72, requested that the UN Secretary General transmit the text of Model Law on International Commercial Arbitration, prepared by UNCITRAL, to governments, arbitral institutions and other interested bodies (chambers of commerce, for example). It recommended that all states give due consideration to the model law in view of the desirability of uniformity in arbitral procedural law and the needs of the international commercial arbitration practice.

#### *F. International Law Commission*

In Resolution 40/75, the UN Assembly expressed its appreciation to the International Law Commission for the work accomplished at the thirty-seventh session. It recommended that the International Law Commission continue its work on its current program's topics in an effort to prepare draft articles on specific

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24. UNCITRAL is the United Nation's central legal body in the international trade law field.

topics before the present term of membership is concluded. The UN Assembly reaffirmed its previous decisions concerning the increased role of the Codification Division of the Office of Legal Affairs of the UN Secretariat, as well as decisions concerning the documentation of the International Law Commission. In addition, the UN Assembly appealed to governments and international organizations to respond fully and expeditiously to requests by the International Law Commission for comments, observations and replies to questionnaires, and for materials regarding its program's topics.

The UN Assembly stated that seminars should continue to be held in conjunction with sessions of the International Law Commission, and that more participants from developing countries be given the opportunity to attend the seminars. The UN Assembly also appealed to states to make voluntary contributions to support the seminars.

#### *G. International Conference on Drug Abuse and Illicit Trafficking*

In Resolution 40/122, the UN Assembly urged all states to summon political support to combat drug abuse and illicit drug trafficking by generating increased political, cultural, and social awareness. It called upon the United Nations, specialized agencies, and other organizations of the United Nations system to give the highest possible attention and priority for the development of international measures to combat illicit production, or trafficking in, and demand for drugs. The UN Assembly also called upon all states that have not already done so to become parties to the Single Convention on Narcotic Drugs (1961), including the Protocol amending the Convention, and become parties to the Convention on Psychotropic Substances (1971). In the meantime, all states were encouraged by the UN Assembly to make serious efforts to comply with the provisions of these instruments.

The UN Assembly decided to convene, at the ministerial level, an International Conference on Drug Abuse and Illicit Trafficking (the Drug Abuse Conference) at the Vienna International Center, in 1987. The Drug Abuse Conference will represent the political will of nations to combat the drug problem at the national, regional and universal levels. The Drug Abuse Conference will adopt a comprehensive multi-disciplinary outline of future activities focusing on substantive issues relevant to the problems of drug abuse

and illicit drug trafficking, *inter alia*,

a) to consider whether existing mechanisms (whereby experience, methodologies and other information in law enforcement, preventive education, treatment and rehabilitation, research and development of manpower to prevent and control drug abuse can be exchanged) should be improved or complemented by new mechanisms;

b) to intensify efforts by governmental, inter-governmental, and non-governmental organizations to combat drug abuse, illicit drug trafficking and related criminal activities, and to further the development of national strategies to form a basis for international action;

c) to create heightened national and international awareness and sensitivity concerning the pernicious effects of narcotic and psychotropic substance abuse;

d) to achieve maximum harmonization and to reinforce national legislation, bilateral treaties, regional arrangements, and other international legal instruments;

e) to make further progress towards eradicating the sources of raw materials for illicit drugs through a comprehensive program of integrated rural development, retraining and the development of alternative means of livelihood, law enforcement, and crop substitution; and

f) to more effectively control the production, distribution and consumption of narcotic and psychotropic substance, thus limiting their use to only medical and scientific purposes.

#### *H. Measures to Prevent International Terrorism*

By Resolution 40/61, the UN Assembly condemned as criminal all acts, methods, and practices of terrorism wherever and by whomever committed, including terrorist acts jeopardizing the friendly relations among states and their security. The UN Assembly also deplored the loss of innocent human lives caused by acts of terrorism, and deplored the pernicious impact of international terrorist acts on relations of cooperation among states. The UN Assembly appealed to all states that have not yet done so, to become parties to the existing international conventions relating to various aspects of international terrorism.

In addition, the UN Assembly invited all states to take appro-

appropriate measures, at the national level, to enable the speedy and final elimination of international terrorism, such as the harmonization of domestic legislation with existing international conventions; the fulfillment of international obligations; and measures to prevent preparation and organization in their territories of terrorist acts directed against other states. It also called upon all states to refrain from organizing, instigating, assisting, or participating in terrorist acts in other states.

The UN Assembly urged all states to closely cooperate with one another through the exchange of information concerning the prevention of terrorism; the apprehension, prosecution, and extradition of perpetrators of terrorism; the adoption of treaties or the incorporation of special clauses into existing bilateral treaties (clauses on the extradition or prosecution of terrorists for example). The UN Assembly called upon all states to take appropriate measures, as recommended by the International Civil Aviation Organization and other international conventions, to prevent terrorist attacks against civil aviation and other forms of public transport. The UN Assembly requested the International Maritime Organization to study the problem of terrorism aboard or against ships and to make recommendations on appropriate measures.

### *I. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*

The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (the Declaration) was adopted by Resolution 40/34 of the UN Assembly. The Declaration is divided into the following chapters: Victims of Crime, Access to Justice and Fair Treatment, Restitution, Compensation, Assistance, and Victims of Abuse of Power.

The UN Assembly affirmed the necessity of adopting national and international measures to secure the universal recognition of, and respect for, the crime victim's rights and abuse of power, without prejudice to the rights of the suspects or offenders. The UN Assembly called upon member states to take the necessary steps to apply the Declaration. Resolution 40/34 specified several steps, including promoting community efforts and public participation in crime prevention; periodically reviewing the states' existing legislation and practices to ensure responsiveness to changing circumstances, and to enact and enforce legislation proscribing acts that

violate internationally recognized norms relating to human rights, corporate conduct and other abuses of power; establishing and strengthening the means of detecting, prosecuting and sentencing those people found guilty of crimes; and promoting disclosure of relevant information to expose official and corporate conduct to public scrutiny.

*J. United Nations Minimum Rules for the Administration of Juvenile Justice*

The United Nations Minimum Rules for the Administration of Juvenile Justice (the Juvenile Justice Rules) were adopted by the UN Assembly through Resolution 40/33. The Juvenile Justice Rules were recommended by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders. The UN Assembly called upon the Committee on Crime Prevention and Control to formulate measures for the effective implementation of the Juvenile Justice Rules.

The Juvenile Justice Rules are divided into the following parts and chapters: Fundamental Perspectives; Scope of the Rules and Definitions Used; Extension of the Rules; Age of Criminal Responsibility; Aims of Juvenile Justice; Scope of Discretion; Right of Juveniles; Protection of Privacy; Investigation and Prosecution; Initial Contact; Diversion; Specialization within the Police; Detention Pending Trial; Adjudication and Disposition; Competent Authority to Adjudicate; Legal Counsel, Parents and Guardians; Social Inquiry Reports; and Guiding Principles in Adjudication and Disposition.

*K. Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live*

The Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live (the Human Rights Declaration) was adopted by the UN Assembly by Resolution 40/144. The Human Rights Declaration contains a preamble and ten articles. Article 2 provides that nothing in the Human Rights Declaration will be interpreted as legitimizing any alien's illegal entry into, and presence in, a state, nor will any provision be interpreted as restricting the right of any state to promulgate laws and regulations concerning the entry of aliens and the terms and conditions of their stay or to establish differences between nation-

als and aliens.

According to article 5, aliens shall enjoy, in accordance with domestic law and subject to the relevant international obligations of the state in which they are present, several rights, including the right to life and security of their person; the right to be free from arbitrary arrest or detention; the right to be free from arbitrary or unlawful interference with privacy, family, home or correspondence; the right to be equal before the courts; the right to choose a spouse and to marry; the right to freedom of thought, opinion and religion; the right to retain their own language, culture and tradition; the right to transfer earnings, savings or other personal monetary assets abroad, subject to domestic currency regulations; the right to leave the country, to freedom of expression, to peaceful assembly, and to own property.

Article 6 provides that no alien will be subjected to torture or to cruel, inhuman or degrading treatment. Article 8 includes the right of aliens who comply with the legal requirements of a state and are lawfully residing in the territory of a state to enjoy safe and healthy working conditions, fair wages and equal remuneration for work of equal value, membership in trade unions, health protection, medical care, social security, social service, education, rest and leisure. According to article 9, no alien will be arbitrarily deprived of his lawfully acquired assets.

#### *L. United Nations High Commissioner for Refugees*

In Resolution 40/118, the UN Assembly reaffirmed the fundamental nature of the United Nations High Commissioner for Refugees' (the High Commissioner) function to provide international protection, and reaffirmed the need for governments to continue to cooperate fully with the High Commissioner's office to facilitate the effective exercise of the High Commissioner's function. It is particularly critical that governments cooperate by acceding to and implementing the relevant international and regional refugee instruments and by scrupulously observing the principles of asylum and *non-refoulement*. The UN Assembly condemned all violations of the rights and safety of refugees and asylum-seekers, particularly those perpetrated by the military, armed attacks against refugee camps and settlements, other forms of brutality, or the failure to rescue asylum-seekers in distress at sea.



*M. Reduction of Military Budgets*

In Resolution 40/91, the UN Assembly reiterated its conviction that it is possible to achieve international agreements on the reduction of military budgets without prejudicing the right of all states to undiminished security, self-defense and sovereignty. The UN Assembly reaffirmed the fact that the human and material resources released through the reduction of military expenditures could be reallocated for economic and social development, particularly for the benefit of the developing countries.

*N. Prohibition of Chemical and Bacteriological Weapons*

In Resolution 40/92(A), the UN Assembly reaffirmed the necessity of the speediest elaboration and conclusion of a convention on the prohibition of the development, production, and stockpiling of all chemical weapons and on their destruction. It appealed to all states to facilitate, in every possible way, the conclusion of such a convention.

*O. Food and Agriculture Problems*

In Resolution 40/181, the UN Assembly reaffirmed some of its previous resolutions concerning food and agriculture, and welcomed the conclusions and recommendations, as adopted and contained in the report of the World Food Council.<sup>25</sup> The UN Assembly also welcomed the conclusions and recommendations contained in the Tenth Annual Report of the Committee on Food Aid Policies and Programs.

The UN Assembly reaffirmed that urgent action should be taken to increase food production, an important factor in meeting the food needs of the developing countries. The UN Assembly welcomed the positive efforts of developing countries in developing their food and agricultural production, and called upon the international community to provide effective support to the efforts of developing countries.

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25. The World Food Council prepared the report at its eleventh ministerial session held in Paris, June 10-13, 1985.

*P. Implementation and Financing of the Plan to Combat Desertification*

The UN Assembly, in Resolution 40/198(A), shared the concern of the Governing Council of the United Nations Environment Program over the slow implementation of the Plan of Action to Combat Desertification. It urged governments, organizations of the United Nations, and all intergovernmental agencies to intensify their efforts in combating desertification, and to accord the highest priority to the measures recommended in the Plan of Action and pertinent decision of the Governing Council.

*Q. Question of Aging*

In Resolution 40/29, the UN Assembly called upon governments to ensure that the question of aging is incorporated into their national development plans. The UN Assembly encouraged governments to consider convening regional and sub-regional meetings on the applicability of the recommendations of the International Plan of Action on Aging to their particular needs and conditions. The UN Assembly requested that the UN Secretary General continue promoting the exchange of information and experience to stimulate progress on the aging issue, to encourage the adoption of measures in response to the economic and social implications of aging, and to meet the needs of older persons.

*R. Review of the Efficiency of the Administrative and Financial Functioning of the United Nations*

In Resolution 40/237, the UN Assembly expressed the conviction that an increase in efficiency would enhance the United Nation's capacity to attain the purposes and implement the principles of the United Nations Charter. The UN Assembly established an eighteen-member group<sup>26</sup> of high-level intergovernmental experts, to carry out, in accordance with the principles and provisions of the United Nations Charter, the following tasks:

a) to conduct a review of the United Nations' administrative and financial matters, and identify measures to improve their efficiency, thereby strengthening the United Nations' effectiveness in dealing with political, economic and social issues; and

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26. Each member will serve for a one year term.

b) to submit to the UN Assembly, before the opening of its forty-first session, a report containing the observations and recommendations of the group.

## V. INTERNATIONAL SPACE ACTIVITIES

In the last few years, there has been an increase of interest in the development of activities dealing with space. Several conferences, seminars, and meetings have been held at national and international levels, and others are scheduled for 1986. A summary of the activities of some of the conferences is presented below.<sup>27</sup>

### A. *Second International Business in Space Conference*

The Second International Business in Space Conference (the Space Conference)<sup>28</sup> was held in Washington, D.C., January 15-17, 1986. There were more than 400 participants from the United States, Canada, Japan and several Western European countries.<sup>29</sup> In the opening session of the Space Conference, David W. Lippy, the President of the Center for Space Policy, Inc., read a letter from Mr. Ronald Reagan, President of the United States, addressed specifically to the Space Conference.

The keynote address was delivered by Dr. Thomas O. Paine, Chairman of the United States National Space Commission, who provided a positive outlook on space activities. Dr. Paine analyzed the development of transportation systems over the last fifty years (from 1935 to 1985), emphasizing the progress achieved since 1965. Dr. Paine commented on the current shuttle program, the space station, and the future of the United States in space exploration, stating that industrialization and commercialization of space presents new problems and challenges. Dr. Paine stressed that the

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27. In addition to the existing journals of *Space Law* and *Astronautics*, numerous magazines dealing with space have been published in the last several years, including: *Commercial Space* (New York, N.Y.); *Space Policy* (London); *Space World* (published in cooperation with the National Space Institute, Washington, D.C.); *International Space Business News* (New York); *Space Information Review* (Commack, N.Y.); *Space Today* (Virginia); and *Commercial Space Report* (London). The newsletters include: *Space Business News* and *Military Space* (Virginia); and *Space Times* (a publication of the American Astronautical Society, Virginia).

28. The Space Conference was organized by the Center for Space Policy, Inc. headquartered in Cambridge, Mass.

29. Isodoro Zanotti, the author of this report, participated in both the first and second space conferences. The first Space Conference was held in Washington, D.C., January 9-11, 1985.

United States should give priority to the development over the next twenty years of safe programs for space transportation to replace the space shuttle. He mentioned two possibilities for future development and their respective advantages: the unmanned vehicle and the aerospaceplane. He explained that the aerospaceplane could take off and land and could transport people much like a jet aircraft. Dr. Paine envisioned that the aerospaceplane could be used for transcontinental transport, for example, from Washington, D.C. to Tokyo in two hours. These ideas, he said, would be a matter for study and decision during the next few years. Dr. Paine also indicated that the United States National Space Commission will present a report to the President of the United States and to Congress by April, 1986 on the recommended guidelines concerning space projects that could be developed by the United States during the next twenty to twenty-five years.

The Space Conference was divided into executive sessions and general sessions. During an executive session, the following five multilateral treaties on space were discussed among the participants: The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space (1967); Agreement on the Rescue and Return of Astronauts (1968); Convention on the International Liability for Damage Caused by Space Objects (1972); Convention on the Registration of Objects Launched into Outer Space (1975); and the Convention on the Exploration of the Moon (1979). Other executive sessions discussed such topics as artificial intelligence opportunities in space, and insurance and risk management.

During the general sessions, two of the topics examined were *International Participation and the Space Station: Government Perspective* (as indicated in the annotated agenda for the Space Conference, it is expected that Canada, Japan and some Western European countries will contribute to the development, operation and utilization of the space station, and that the station represents an important aspect of the United States' foreign policy); and *Contractor Perspective in the International Participation and the Space Station*. (It was mentioned in the annotated agenda that over the next decade about eight billion dollars will be spent on contractor development technologies, such as power generation, structure, composites, control systems, automation and robotics.)

In other sessions, the following topics were discussed: commercial applications of satellite technologies; new developments in sat-

ellite technology and services; mobile satellite services; new approaches to expanding private network services; current status of European efforts to develop a direct regional broadcast satellite system; processing and manufacturing materials; remote sending; and insurance and risk management. It was noted in the sessions that in view of the loss of some communications satellites in the last few years, the space insurance industry has increased launch premiums. The discussions centered on the financial status of the industry and the impact of self insurance, satellite repair and rescue, proposals for multiple-launch insurance pools, and other risk management options.

### *B. Space Commerce '86*

The International Conference and Exhibition on the Commercial Uses of Outer Space (the Space Commerce Conference) will be held in Montreux, Switzerland, June 16-20, 1986. According to the Newsletter Space Commerce, the Space Commerce Conference will address international executives from diverse areas of business.<sup>30</sup> The Newsletter Space Conference '86 noted that "Business in space offers vast opportunities for progress-minded entrepreneurs. Recent studies on the commercial space industry indicate that the total revenue could exceed fifty billion dollars by the year 2000. Opportunities abound and future political and economic trends dictate that chief decision makers take note."<sup>31</sup>

The Space Commerce Conference will consider various topics,<sup>32</sup> including an overview of commercial space markets from European and American points of view; NASA's approach to space commercialization; roles of government and industry regarding space commercialization in Europe; technical, economic, and commercial evolution of launching methods; space commercialization in the United States; commercial use of space transportation systems toward a permanent manned space station; the transition to space commerce; space law and enterprise in space; space commercialization legislation; private financing of space enterprises; investment in space enterprises; financing space projects for developing countries; space insurance; current situation and prospects; space environment characteristics that interest the non-space in-

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30. *Newsletter Space Conference '86*, No. 4, February 1986.

31. *Id.*

32. *Id.*

dustry; Spacelab: current research and industrial achievements in space (material sciences and pharmaceuticals); industrialization activities in space in Canada and Germany; supporting roles of governmental agencies and industries in Japan; user prospects arising from Italian communications technology; commercial television distribution and broadcast by satellites in the United States; de-regulation or direct television broadcast; European television market expansion; United States' industrial contribution toward the space station; NOAA weather satellites; commercialization versus government operation; Landsat commercialization plan and its impact; useful application of weather satellites and future remote sensing; financing of high risk investments; automation, robotics and advanced computing for technical support services; and artificial intelligence in space.

*C. Other International Space Conferences and Meetings*  
(recently held or scheduled for 1986)

1. Space Station: Gateway to Space Manufacturing. The conference date and location is Orlando, Florida, November 7-8, 1985. Topics include: best bet in new technology; a new path for space financing; low-cost starting options; Space Station; private initiative and opportunities; and initial space labs and factories.

2. Satellite Communications. International Communications and Broadcasting Conference. The conference date and location is London, England, December 3-4, 1985. Topics include: developing world-wide satellite communications; European broadcast service satellites; achieving profitability in satellite broadcasting; and technology trends—mobile satellite services.

3. Space Exploration and Utilization. The conference date and location is Honolulu, Hawaii, December 15-19, 1985. Topics include: space-based manufacturing; national and international space programs; astrodynamics; remote sensing of the earth; advanced space-based communication systems; telecommunication facilities development in the Pacific Basin; future use of robotic technology for space applications; future trend in the development of vehicle launch technology; and earth resources satellite technology.

4. Twenty-Fourth Goddard Memorial Symposium: The Human Quest in Space. The conference date and location is NASA Goddard Space Flight Center, Greenbelt, Maryland, March 20-21, 1986. Topics include: what happens after space station: material

science opportunities, prospects for space science, and prognosis of future remote sensing activities for applications; evolution of the space infrastructure; visionary technologies—technology projections for 2000-2020; future impact of intelligent machines on space operations; future information technology; nuclear power in the future of space exploration; the human role in the quest in space; human capabilities in space, medical problems associated with long duration of space flights; lunar settlement; and martial settlement.

5. Space Tech '86. The conference date and location is Geneva, Switzerland, May 14-16, 1986. Topics include: stations in space and international legal issues; space transportation; and business issues.

6. Teleconferencing in the Marketplace '86. The conference date and location is Amsterdam, Netherlands, May 19-21, 1986. Topics include: techniques of teleconferencing; alternatives; economic factors; and teleconferencing prospects.

7. Aerospace '86. The conference date and location is Virginia, April 29 to May 1, 1986. Main topics include: national defense; space station; future space transportation; and major aerospace policies issues.

8. International Symposium on Columbus Space Station. The conference date and location is Hanover, Federal Republic of Germany, June 9-10, 1986.

9. Legal Problems in the Construction and Operation of Space Labs. The conference date and location is Cologne, Federal Republic of Germany, July 11-13, 1986.

10. Annual Meeting of the American Astronautical Society. The Conference date and location is Boulder, Colorado, October 1986.

11. International Astronautical Congress (37th). The conference date and location is Innsbruck, Austria, October 4-11, 1986.

## VI. MULTILATERAL INVESTMENT GUARANTEE AGENCY

During its meeting in Seoul, the Board of Governors of the International Bank for Reconstruction and Development (the World Bank), approved the Convention Establishing the Multilateral Guarantee Agency (MIGA) and submitted it to the govern-

ments.<sup>33</sup> The MIGA convention contains 67 articles and is divided into the following chapters:

- I. Preamble, Establishment, Status, Purposes and Definitions;
- II. Membership and Capital;
- III. Operations;
- IV. Financial Provisions;
- V. Organization and Management;
- VI. Voting, Adjustments of Subscriptions and Representation;
- VII. Privileges and Immunities;
- VIII. Withdrawal, Suspension of Membership and Cessation of Operations;
- IX. Settlement of Disputes;
- X. Amendments; and
- XI. Final Provisions.

Annex I. Guarantees of Sponsored Investments under Article 24;

Annex II. Settlement of Disputes Between a Member and the Agency under Article 57. Schedule A. Membership and Subscription; Category One and Category Two; Schedule B. Election of Directors.

According to article 1, MIGA will possess full juridical personality, the capacity to contract, acquire and dispose of movable and immovable property, and to institute legal proceedings. Article 2 provides that the objectives of MIGA will be to encourage the flow of investments for productive purposes among member countries, particularly developing member countries, supplementing the activities of the International Bank for Reconstruction and Development, the International Finance Corporation, and other international development finance institutions. To implement the objective, MIGA will: issue guarantees, including co-insurance and reinsurance, against non-commercial risks of investments in a member country originating in other member countries; and initi-

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33. Convention Establishing the Multilateral Investment Guarantee Agency and Commentary on the Convention. Submitted to governments by the Board of Governors of the International Bank for Reconstruction and Development. October 11, 1985, convention, 44 pages; Commentary, 24 pages attached to the convention.

Report on MIGA, published by the Information and Public Affairs Department, The World Bank, 1818 H Street NW, Washington, D.C. 20433 (September-October 1985).



ate complementary activities to promote the flow of investment to and among developing member countries.

Membership in the MIGA will be open to Switzerland and the International Bank for Reconstruction and Development members. Article 5 provides that the authorized capital stock of the MIGA, will be one billion Special Drawing Rights (SDR). The capital stock will be divided into 100,000 shares, each having a par value of SDR 10,000 which will be available for subscription by the members. According to article 13, any natural or juridical person may be eligible to receive the MIGA's guarantee, provided that:

(i) the natural person is a national of a member state other than the host country;

(ii) the juridical person is incorporated and has its principal place of business in a member state or the majority of the juridical person's capital is owned by a member(s) or national(s) of a member state that is not the host country; and

(iii) the juridical person, whether or not it is privately owned, operates on a commercial basis.

Article 30 provides that MIGA will have a Council of Governors, a Board of Directors, a President, and a staff to perform MIGA duties.

The MIGA convention will be open for signature by the members of the International Bank for Reconstruction and Development and Switzerland and will be subject to ratification, acceptance, or approval by the signatory states. The MIGA convention will be effective when a minimum of five instruments of ratification, acceptance, or approval have been deposited by the signatory states in Category One,<sup>34</sup> and a minimum of fifteen instruments have been deposited by signatory states in Category Two,<sup>35</sup> provided that the total subscriptions of the signatory states equals one third of the authorized capital of MIGA.

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34. Twenty-one countries are included in Category One. The largest number of shares in Category One are assigned to the United States, Japan, the Federal Republic of Germany, France, and the United Kingdom.

35. One hundred and twenty-eight countries are listed in Category Two. All of the American countries, with the exception of Canada and the United States, are included in Category Two. The largest number of shares in Category Two are assigned to Brazil, Venezuela, Argentina, and Mexico in that order.

VII. COUNCIL OF EUROPE: THE EUROPEAN CONVENTION ON SPECTATOR VIOLENCE AND MISBEHAVIOR AT SPORTS EVENTS AND IN PARTICULAR AT FOOTBALL MATCHES

The European Sports Convention was adopted by the Council of Europe (The council) on August 19, 1985.<sup>36</sup> The European Sports Convention contains 17 articles with the following titles: Aim of the Convention, Domestic Coordination, Measures, International Cooperation, Identification and Treatment of Offender, Additional Measures, Provision of Information, Standing Committee, Amendments to the Convention, and Final Clauses. The preamble of the convention states that the goal of the council is to achieve greater unity among its members and that the council is concerned with the violence and misbehavior among spectators at sports events, particularly at football matches. The preamble emphasizes the important contribution of sports events, particularly football, in achieving an international understanding between countries.

The state parties to this convention are to take measures to give effect to the convention's provisions and apply the provisions to all sports events in which violence or misbehavior by spectators may occur. The convention provides that the state parties are to coordinate through the formation of a central body, the policies and actions of their governments' departments and other public agencies to combat spectator violence and misbehavior.

The convention provides that the state parties will formulate and implement measures designed to prevent and control violence and misbehavior by spectators, including the following:

a) the employment of public-order resources to counter outbreaks of violence and misbehavior in the immediate vicinity of the stadium, inside the stadium, and along the transit routes used by spectators;

b) the interchange of information and cooperation between the police forces of the different localities involved;

c) the application for or adoption of legislation, or administrative measures which provide appropriate penalties for persons found guilty of offenses related to spectator violence or misbehavior; and

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36. 24 I.L.M. 1566-72 (1985). A footnote on page 1566 states that "[t]he Convention was drawn up and entered into force in record time following the Brussels Heysel Stadium tragedy on May 29, 1985."

d) the coordination of travel arrangements from the place of departure, in cooperation with clubs, organized supporters, and travel agencies, to inhibit potential trouble-makers from leaving to attend matches.

The convention also provides that prior to the matches or tournaments, the state parties should invite their competent authorities, especially the sports organizations, to identify the matches at which violence or misbehavior by spectators is most likely to occur. It is further provided that the states parties, respecting legal procedures, shall seek to ensure that spectators committing acts of violence or other criminal behavior are identified and prosecuted with due process of law.

The convention established a Standing Committee. Any state party may be represented on the Standing Committee, and each state party has one vote. Any member of the Council of Europe or any state party to the European Cultural Convention, although not a state party to the European Sports Convention, may be represented on the Standing Committee as an observer.

The Standing Committee will be convened by the Secretary General of the Council of Europe. Its first meeting will be held within one year of the European Sports Convention's effective date of adoption. Subsequently, the Standing Committee will meet a minimum of once every year.

The Standing Committee will be responsible for monitoring the application of the convention. It may, in particular, review the provisions of the convention; hold consultations with sports organizations; examine any modifications which might be necessary; and make recommendations to the Parties concerning measures to be taken for the purposes of the convention.